

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

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CHIMA AGIM, PRO SE,	§	
TDCJ-CID #870112,	§	
	§	
Plaintiff,	§	
	§	
v.	§	2:06-CV-0203
	§	
TIMOTHY C. SIMMONS,	§	
NORVEL L. ARNOLD,	§	
BERNARD W. KARNES,	§	
BRANDON B. KIDD,	§	
JAMES L. DANIEL, KEVIN L. ANDIS,	§	
GAYLORD L. THOMPSON,	§	
JOSHUA S. PARSONS, JACK L. SYFRETT,	§	
MELONIA G. SIMMONS,	§	
MARY ANN LAMB,	§	
DANNY R. HEAD, RANDY L. JONAS,	§	
NFN PATEL, NFN PARKS, NFN VALDEZ,	§	
NFN BETTS, NFN KENNEDY,	§	
NFN FERNANDEZ, NFN GUERRERO,	§	
NFN AMBRIZ, NFN LAZENBY,	§	
NFN DORIA, NFN METZ,	§	
NFN SMITH, NFN WHILHITE,	§	
NFN GONZALEZ, B. ROTH LISBERGER,	§	
NFN GARRISON, NFN PALACIOS,	§	
NFN COLEMAN, NFN MARTINEZ,	§	
NFN HAND, NFN OROZCO,	§	
LORI CAMARENO, NFN BLACKWELL,	§	
NFN CAVALIN, NFN REA, NFN SMITH,	§	
NFN WOODCROFT, NFN HERRERA,	§	
NFN TRAHAN and NFN JERNIGAN,	§	
	§	
Defendants.	§	

**ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS,  
MEMORANDUM OPINION AND ORDER OF DISMISSAL**

Plaintiff CHIMA AGIM, acting *pro se* and while a prisoner incarcerated in the Texas Department of Criminal Justice, Correctional Institutions Division, has filed suit pursuant to

Title 42, United States Code, section 1983 complaining against the above-named defendants and requesting permission to proceed in forma pauperis.

Under the “three strikes” provision of the Prison Litigation Reform Act, a prisoner who has had three prior civil actions or appeals, brought during detention, dismissed as frivolous, malicious, or for failure to state a claim, is barred from further proceeding in forma pauperis in such actions, unless the case fits into the narrow exception enumerated in Title 28, United States Code, section 1915(g). A prisoner who has sustained three dismissals qualifying under the “three strikes” provision may still pursue any claim, “but he or she must do so without the aid of the i.f.p. procedures.” *Adepegba v. Hammons*, 103 F.3d 383 (5<sup>th</sup> Cir. 1996).

The Court notes that plaintiff AGIM has sustained at least three dismissals which fulfill the "three strikes" provision of the PLRA: (1) cause no. 6:00-CV-0427 was dismissed by the United States District Court for the Eastern District of Texas, Tyler Division, on February 20, 2001 as frivolous and malicious, (2) the appeal, cause no. 01-40253, was dismissed by the United States Court of Appeals for the Fifth Circuit on August 19, 2002 as frivolous, (3) cause no. 6:01-CV-0312 was dismissed by the United States District Court for the Eastern District of Texas, Tyler Division, on July 13, 2001 as frivolous, and (4) the appeal, cause no. 01-41153 was dismissed by the United States Court of Appeals for the Fifth Circuit on May 28, 2002 as frivolous.

Pursuant to Title 28, United States Code, section 1915(g), the Court FINDS plaintiff CHIMA AGIM may not proceed in forma pauperis in any further new filings or appeals filed while a prisoner unless grounds are argued in a motion for leave which fall within the limited exception enumerated in Title 28, United States Code, section 1915 (g). Even if the instant cause were accompanied by the necessary motion, the grounds presented in the instant suit do not fall within

the statutory exception. Plaintiff has alleged no fact fulfilling the statutory exception as construed by the Fifth Circuit. *Banos v. O'Guin*, 144 F.3d 883, 885 (5<sup>th</sup> Cir. 1998).

Moreover, plaintiff's complaint consists of the complaint form of eight pages, with attachments, and a 178<sup>1</sup> page Memorandum purporting to contain the Statement of Facts for plaintiff's claims. Review of plaintiff's complaint form and accompanying memorandum reveals plaintiff has utterly failed to comply with the instruction to state his complaint "briefly and concisely." Plaintiff has failed to comply with Rule 8, Federal Rules of Civil Procedure, to provide a "short and plain statement of the claim showing that the pleader is entitled to relief." For the foregoing reasons, even if plaintiff qualified for pauper status, his complaint is subject to dismissal.

### CONCLUSION

For the reasons set forth above, the instant cause is DISMISSED WITHOUT PREJUDICE TO REILING WITH PREPAYMENT OF THE FILING FEE AND SUBMISSION OF A COMPLAINT IN COMPLIANCE WITH RULE 8, FEDERAL RULES OF CIVIL PROCEDURE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

All pending motions are DENIED.

IT IS SO ORDERED.

ENTERED this 22<sup>nd</sup> day of August, 2006.

/s/ Mary Lou Robinson  
MARY LOU ROBINSON  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Although plaintiff totals the length of his Memorandum as 179 pages, page no. 139 appears to be missing from plaintiff's pleading.